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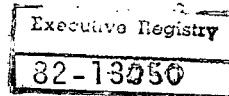
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Executive Secretary


11/16/82
Date

THE WHITE HOUSE
WASHINGTON



CABINET AFFAIRS STAFFING MEMORANDUM

DATE: 11/15/82 NUMBER: 077594CA DUE BY: _____

SUBJECT: Cabinet Council on Natural Resources and Environment

November 17, 1982 - 4:00 p.m. in the Roosevelt Room

	ACTION	FYI		ACTION	FYI
ALL CABINET MEMBERS	<input type="checkbox"/>	<input type="checkbox"/>	Baker	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deaver	<input type="checkbox"/>	<input type="checkbox"/>
State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Clark	<input type="checkbox"/>	<input type="checkbox"/>
Treasury	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Darman (<i>For WH Staffing</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Defense	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Harper	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Attorney General	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jenkins	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Interior	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Wheeler	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Agriculture	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Kudlow	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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REMARKS: The Cabinet Council on Natural Resources meet Wednesday, November 17 at 4:00 p.m. The agenda and background papers are att

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RETURN TO:

☐ Craig L. Fuller
Assistant to the President
for Cabinet Affairs
456-2823

☒ Becky Norton
Director, Office
Cabinet Affairs
456-2800

THE WHITE HOUSE

WASHINGTON

CABINET COUNCIL ON NATURAL RESOURCES AND ENVIRONMENT

November 17, 1982

4:00 p.m.

Roosevelt Room

AGENDA

1. Strategic Petroleum Reserve Drawdown (CM#086)

THE WHITE HOUSE

WASHINGTON

November 15, 1982

MEMORANDUM FOR THE CABINET COUNCIL ON NATURAL RESOURCES
AND ENVIRONMENT

FROM: DANNY J. BOGGS, EXECUTIVE SECRETARY *DB*

ISSUE: What Documents Should the President Submit to Congress as his Strategic Petroleum Reserve (SPR) Drawdown Plan, and SPR Drawdown and Distribution Report?

BACKGROUND

After the President's veto of the Standby Petroleum Allocation Act (SPAA) was upheld, thus preventing the reenactment of Presidential authority to impose price controls and allocations, Congress took other steps to indicate its concern with the problem of preparedness for energy emergencies. The Energy Emergency Preparedness Act (EEPA) extended the anti-trust exemption which allows the United States to participate in the International Energy Agency (IEA), and also required the President to submit a series of reports on topics involving emergency preparedness. These reports are due on the following timetable:

November 15, 1982 - Memorandum on legal authorities available to the President in case of energy supply interruption.

December 1, 1982 - Strategic Petroleum Reserve drawdown plan and Strategic Petroleum Reserve drawdown and distribution report.

December 31, 1982 - Regional Petroleum Reserve report and Strategic Alcohol Fuel Reserve report. Comprehensive Emergency Response Procedure report.

August 3, 1983 - Impact analysis of market allocation and pricing reliance.

The most important of these are the SPR drawdown plan due on December 1, and the Comprehensive Emergency Response Procedures report due on December 31. Because the SPR plan is the only one of these items which will have legal force and effect, and because of the nearness of that deadline, this memorandum will focus primarily on those issues.

OTHER WORK DONE, AND IN PROGRESS

On November 15, the President submitted a Memorandum of Law prepared by the Justice Department describing in considerable detail the authorities available to the President in case of energy emergency. This memorandum basically indicated that the President had ample authority to meet our international commitments under the International Energy Agreement, and to meet defense needs under the Defense Production Act of 1950. It also indicated that there were a variety of other authorities which gave the President substantial latitude in meeting energy emergencies, other than by imposing price controls or specifically allocating petroleum products for domestic purposes.

The Comprehensive Emergency Response Procedures report was designed by Congress to obtain information as to the procedures and practices the President would use in dealing with an energy emergency. It requests extremely detailed information on the internal Presidential decision-making process before, during, and after any such emergency. Work on this report is still in progress, but it is the current inclination of the Department of Energy, the National Security Council, and the Working Group, that extreme precision and detail is neither possible nor appropriate. The response to any such emergency would depend greatly on the type of emergency, the national and international economic and political situation at the time, and many other factors. It would not be wise to constrict the President's choice of options by an overly detailed recitation of a specific sequence of meetings or events. The plan will attempt to be as forthcoming as possible about the usual Presidential decision-making process and likely avenues that would be used in some of the more commonly expected emergencies.

In common with previous studies of this subject, it appears that the Regional Strategic Petroleum Reserve will conclude that regional Petroleum Reserve storage would not be cost-effective for the United States.

This specific topic of a Strategic Alcohol Fuel Reserve has not been studied as thoroughly as the Regional Reserve, and considerable analytic work is under way. It appears unlikely, however, that the report will determine that such a Storage Reserve would be cost-effective, compared to equivalent expenditure for crude oil storage.

PAST SPR DRAWDOWN PLANS

Under the Carter Administration, a drawdown plan for the SPR was submitted which, in essence, provided the Administration with almost complete discretion as to the use of the SPR. Oil could be drawn from the SPR and sold at auction, it could be simply given away or allocated at the discretion of the President, or it could be used to reimburse parties for activities such as contributions or sale of oil under the International Energy Agreement. Under the law authorizing the SPR, this plan, and any amendments submitted to it, was subject to congressional review and could be blocked by a one-house veto. Under the EEPA, the President's new SPR drawdown plan (certainly if submitted on time on December 1) is not subject to any congressional approval, and becomes effective automatically. Subsequent amendments, however, submitted by this or any future President, will be subject to congressional scrutiny. Thus, it is extremely important that this drawdown plan be well crafted to reflect Administration policy, and that it be submitted on time.

DISCUSSION OF ISSUES CONCERNING SPR DRAWDOWN

- o From the individual's point of view, the most desirable outcome is to have oil given to him.
- o From the national point of view, the optimum outcome is to have oil go to the highest valued uses, which would mean a market allocation.
- o Since release of the SPR would mean making more oil available to the world market, a release would, other things being equal, place downward pressure on world oil prices. This would redound to the benefit of all world oil consumers, of whom the United States represents less than half.
- o The more oil is released early in a disruption to attempt to restrain price effects, the less is available for physical emergency needs, or for preventing panic later in a disruption.
- o There will undoubtedly be substantial pressures from particular interest groups during a disruption claiming that they are disadvantaged in "access" to oil. This will generally be stated as "the issue isn't price, it's access."
- o Since normally the issue really is price, a simple release and market sale system is unlikely totally to satisfy these demands.

- o The Working Group generally favors a system of sale at a market price of such oil as the President chooses to release from the Reserve, with the broadest possible qualification of bidders. In such a case, oil would be available from an assured supply at a market price. This sale could be by sealed bids, open outcry auction, or other market method.
- o The current IEA anti-trust exemption expires December 31, 1983. Many Congressmen have shown a strong interest in the proposed method of use of the SPR. They may be expected to try to use the next IEA extension legislation for new riders if they find our SPR plan unacceptable.

Key Issues Considered

1. Should there be a "trigger," specified in advance, for SPR drawdown?

There is little or no analytic basis on which to determine in advance that a particular "interruption level" requires use of the reserve. The simple calculation of a "trigger" or "shortfall" would be extremely difficult. This is clearly illustrated by the current situation where OPEC production has fallen nearly 10 million barrels a day in the past two years, yet no one would say that this has been a "10 million barrel/day shortfall emergency." Any mechanical trigger finds it hard to distinguish between such supply and demand changes.

It has been suggested that a price rise criteria could be used, so that any time prices rose more than X percent a week, or more than X dollars in total, the SPR would automatically be triggered. Again, it seems unwise to bind the President to such a rigid rule for the following reasons:

- a. The nature of the emergency, such as a known and repairable physical disruption, might mean that a price runup, if one occurred, was clearly temporary, and the SPR should not be used for such a situation. On the other hand, a disruption could be so clearly permanent, and new higher price levels clearly justified, that release to attempt to prevent the inevitable would not be wise.

- b. Any fixed rule runs the risk of diminishing the additional protection provided by the Reserve. If all oil users or holders know the drawdown rule, they will more easily be able to reduce their own stocks in reliance upon the availability of SPR stocks at a known time and quantity. This problem of trying to ensure that the SPR supplements rather than supplants private stocks is pervasive, and should not be made any more difficult than it is.

Some, led by CEA, argue that a specific rule is exactly what is needed, to prevent politically expedient decisions, and to reduce uncertainty (a great enemy of efficiency) in the user community.

They note that discretion and drawdown would increase the uncertainty surrounding private sector stockpiling. Increased uncertainty on SPR policy may increase or decrease private sector stockpiling; but to the extent that discretion increases the expected probability of price and allocation controls of one kind or another, such discretion will reduce both the optimality and the level of private stocks, both by those who expect to benefit from the policies and by those who expect to see their oil confiscated. In addition, discretion may unleash an array of political forces demanding measures and policies which will interfere seriously with market processes and which will reduce the efficiency of crude oil and product allocation during future disruptions.

In 1981, the Cabinet Council on Economic Affairs considered this issue directly, and opted for retaining a policy of great flexibility.

- 2. The major issue the Working Group has discussed is whether all distribution of the Reserve should be strictly limited to availability by market sales, or whether a specific portion (usually suggested at 10 percent of whatever sale or release is made) or even all of it should be available at Administration discretion for distribution to specific buyers. While the major controversy has been over whether there should be any breach of the auction-only principle, the Working Group considered several variations on the type of discretion that could be allowed.
 - o The Secretary could direct up to 10 percent of supplies to a particular buyer or class of buyers, but those buyers would have to pay a specified market price, such as the average of bids at the most recent or contemporaneous sale.

- o The President could be allowed non-delegable discretion to designate a particular buyer or class of buyers for all oil, but the buyers would similarly have to pay a market price.

These two kinds of discretion are reflected in the first two options.

Option 1 - Permit the sale of up to 10 percent of the SPR oil released in a given period to a specified buyer or class of buyers, at a market price.

Advantages:

1. Provides assurance to refiners and users (including Department of Defense) that there will be some visible power for the government to prevent catastrophic shortages in their areas.
2. Provides an argument to secure congressional agreement to an otherwise strictly free-market policy.
3. The competitive pricing feature assures that this provision cannot be used simply as a subsidy for favored buyers.

Disadvantages:

1. Acceptance of this breach of the market sale principle could lead to congressional efforts (either pre- or post-disruption) to expand the 10 percent limit.
2. Could lead users and refiners to neglect self-help measures and preparedness in reliance upon ultimate assistance from the government.
3. Could lead to political pressure for status as one of the buyers within the apparently favored 10 percent.
4. 10 percent limit could arguably reduce government power to meet national security needs directly from SPR.

Option 2 - Permit non-delegable Presidential discretion to dispose of all SPR oil at his discretion at a market price.

Advantages:

1. Would assure all doubters that sufficient SPR oil would be available to meet their needs.
2. Should forestall congressional attempts to restrict SPR program.
3. Could be used to meet all military needs and resolve problems of the military's access to fuel.
4. Would allow Presidential flexibility to meet IEA requirements from SPR.

Disadvantages:

1. Allows fuel use by political direction, not by highest economic value.
2. Would discourage proper preparedness, if users came to rely on availability through this source. Creates false sense of security that all claimants can be satisfied by allocations from SPR.
3. Will create huge demand for favorable allocations, even though "market price" rule could diminish it somewhat.
4. If a large amount of oil is so allocated, the "market price" reference may become increasingly attenuated.

Option 3 - Permit no deviation from a principle of market sale of all SPR oil.

Advantages:

1. Ensures that oil will go to market-determined highest uses.
2. Ensures that the President will not be deluged with requests to use the discretionary authority that other proposals would give him.
3. Will further stimulate efforts at self-help in advance of the occurrence of an emergency.
4. Since any amendments to this plan require congressional review, this option ensures that any future deviations from market pricing receive thorough scrutiny.

Disadvantages:

1. May appear so inflexible that Congress will be stimulated to pass entirely new legislation requiring some types of allocation or other help for special interests.
2. Could mean that highly localized dire circumstances would occur, without any visible possibility of federal help, thus tarnishing the Administration's image of preparedness. Discretion would probably be little exercised, especially if purchasers had to pay a market-related price, but could still be useful cosmetically.
3. National security rationale for SPR could be weakened if no special access for defense needs (other than by use of Defense Production Act).
4. Could jeopardize Presidential ability to meet obligations under the IEA oil crisis response system in a direct and visible manner.

SPR DRAWDOWN AND DISTRIBUTION REPORT

This report, based upon the draft revised SPR Drawdown Plan, focuses on the basic policies governing the use of the SPR. It discusses the Administration's strategy of relying on the market to price and distribute energy supplies during a distribution. The report maintains the need for a flexible approach in using the SPR because of the many factors that must be considered in making a decision. Illustrative scenarios responding to the requirements of EPCA are included to show how differences in factors concerning the situation can influence the decision to use SPR.

An appendix is attached to the report containing a synopsis of analytical work completed and underway for DOE relating to SPR. Although the work addresses many different points of view concerning SPR use policies, it illustrates the DOE approach of continuing to examine a wide spectrum of alternatives for SPR use as part of sound energy emergency contingency planning.

The resolution of the issues identified in the SPR Plan will also apply to the report. The only issue arising solely with respect to the report is whether to include the Appendix as part of the report, in order to show that the Administration is addressing important energy issues about which Congress has also expressed concern. The objection to including the Appendix is that the Administration does not necessarily agree with all of the conclusions in all of the contractor work mentioned in the Appendix (a point noted in the draft Appendix).